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20 Attorneys for Defendants C. R. Bard, Inc. and
21 Bard Peripheral Vascular, Inc

22 IN THE UNITED STATES DISTRICT COURT
23 FOR THE DISTRICT OF ARIZONA

24 IN RE: Bard IVC Filters Products
25 Liability Litigation,

No. 2:15-MD-02641-DGC

26 **JOINT MOTION AND**
27 **INCORPORATED**
28 **MEMORANDUM TO SEAL THE**
PARTIES' RESPONSE TO THE
COURT'S JUNE 29, 2020 ORDER

1 Plaintiffs and Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. hereby
 2 respectfully move this Court for an order, pursuant to the Stipulated Protective Order (Doc.
 3 268), Federal Rule of Civil Procedure 26(c)(1)(G), and Local Civil Rule 5.6 sealing the
 4 Parties' Response to the Court's June 29, 2020 Order. The Parties' Response contains
 5 details and terms of a confidential settlement agreement reached between the parties.
 6 Accordingly, there is good cause to grant Bard's Unopposed Motion to Seal.

7 **ARGUMENT AND CITATION OF AUTHORITY**

8 **A. The Parties' Response Is "Confidential Information" Pursuant to the** 9 **Stipulation for Protective Order, and Therefore They Should Be Sealed for** 10 **Good Cause**

11 The Court has entered a Stipulated Protective Order to protect public disclosure of
 12 "Confidential Information" that is suitable for protection under Federal Rule of Civil
 13 Procedure 26(c). Stipulated Protective Order (Doc. 269 ¶¶ 1, 2.) Federal Rule of Civil
 14 Procedure 26(c)(1)(G) provides that the Court may, for good cause, "issue an order to
 15 protect a party or person from annoyance, embarrassment, oppression, or undue burden or
 16 expense." "The Ninth Circuit Court of Appeals recognizes the authority of district courts
 17 to protect confidential settlement agreements." *Alcaide v. Thomas*, No. CV-11-01162-JAT-
 18 JFM, 2015 WL 6087560, at *3 (D. Ariz. Oct. 16, 2015) (citing *Phillips ex rel. Estates of*
Byrd v. Gen. Motors Corp., 307 F.3d 1206, 1212 (9th Cir. 2002)).

19 In *Alcaide*, the court concluded that because a settlement agreement was attached to
 20 "a nondispositive filing, the 'good cause' standard of Fed. R. Civ. P. 26(c) applies." *Id.* The
 21 court concluded that because confidentiality was part of the bargained for settlement,
 22 "[b]alancing the competing interests involved and considering the lessened presumption of
 23 public access, the promotion of settlement agreements outweighs the public need for access
 24 in this case." *Id.*

25 Here, as in *Alcaide*, the terms of the parties' settlement agreement are not being filed
 26 with a dispositive motion. And, in an effort to fully address the Court's concerns in its June
 27 29, 2020 Order, the parties included details in their joint response that they otherwise would
 28 not have made public, and, indeed, could not have made public pursuant to the terms of the

1 settlement agreement. As a result, the parties respectfully request that the Court grant their
2 Joint Motion to Seal.

3 **CONCLUSION**

4 For the foregoing reasons, the parties have met the good cause standard for
5 protection of their settlement information pursuant to Rule 26(c). Accordingly, the parties
6 request that the Court grant their Joint Motion to Seal.

7 DATED this 8th day of July, 2020.

8 /s/ Tim K. Goss

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